

INSTRUCTION NO. 29:

Punitive Damages

Because you have decided that Aclara acted with malice or reckless indifference to Mr. Rufo's federally protected rights, you now must determine whether to award what are called "punitive damages." A jury may award punitive damages to punish a defendant, and to deter the defendant and others like the defendant from committing such conduct in the future.

Regardless of your finding that there has been an act of retaliation with malice or reckless disregard of Mr. Rufo's rights, you cannot award punitive damages if Aclara proves by a preponderance of the evidence that it made a good-faith attempt to comply with the law. Moreover, an award of punitive damages is discretionary; that is, if you find that the legal requirements for punitive damages are satisfied, and that Aclara has not proved that it made a good-faith attempt to comply with the law, then you may decide to award punitive damages, or you may decide not to award them. I will now discuss some considerations that should guide your exercise of this discretion.

You should consider the purposes of punitive damages. The purposes of punitive damages are to punish a defendant for a malicious or reckless disregard of federal rights, or to deter a defendant and others like the defendant from doing similar things in the future, or both. Thus, you may consider whether to award punitive damages to punish Aclara. You should also consider whether actual damages standing alone are sufficient to deter or prevent Aclara from again performing any wrongful acts that may have been performed. You should consider whether an award of punitive damages in this case is likely to deter others from performing wrongful acts similar to those Aclara may have committed.

You should also keep the purposes of punitive damages in mind when deciding the amount, if any, of punitive damages you will award. That is, in deciding the amount of punitive damages, you should consider the degree to which Aclara should be punished for the wrongful conduct at issue in this case and the degree to which an award of one sum or another will deter Aclara or others from committing similar wrongful acts in the future.

The extent to which a particular amount of money will adequately punish a defendant, and the extent to which a particular amount will adequately deter or prevent future misconduct, may depend upon a defendant's financial resources. Therefore, if you find that punitive damages should be awarded against Aclara, you may consider the financial resources of Aclara in fixing the amount of those damages.